

ABDUL BROWN

v.

JEFFREY BEARD; WILLIAM
STICKMAN; FRED MAUE; LANCE
COUTURIER; DONALD WILLIAMSON;
MIKE ZAKEN; HARRY WILSON;
GEORGE REPOSKY; ADAM CRUMB;
SCOTT NICKELSON; CHARLES
DOBRZYNSKI; ROBERT HOLMAN;
LEE JOHNSON; JOHN MEEKER;
CORRECTIONAL OFFICER CUMMINGS;
KEN KETCHER.

) Civil Action No. 07 -
) 637
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) Judge Gary L. Lancaster /
) Magistrate Judge Lisa
) Pupo Lenihan
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MEMORANDUM ORDER

The above captioned case was filed on May 14, 2007, and was referred to Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judge's Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (doc. no. 53), filed on February 21, 2008, recommended that Defendants' Motion for Partial Summary Judgment (doc. no. 16) be granted in part and denied in part. Specifically, it recommended that the Motion be denied as to Plaintiff's claims regarding his placement and confinement in the SMU and granted as to Plaintiff's claims that Defendants put chewing tobacco in his food and spread a rumor that he was a "snitch" based on

Plaintiff's alleged failure to have exhausted his administrative remedies. All parties were served with the Report and Recommendation and Plaintiff filed Objections on March 7, 2008 (doc. no. 54). Attached to his Objections is a document that seems to show that Plaintiff's claims were appealed through final review as required by 42 U.S.C. § 1997e(a) (doc. no. 54-12). Thus, it appears that Defendants' Motion for Partial Summary Judgment should be denied.

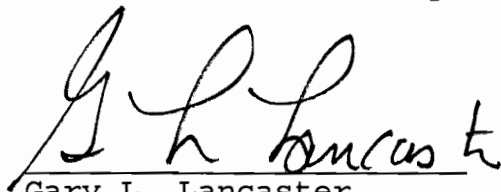
After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the Objections thereto, the following order is entered:

AND NOW, this 13th day of March, 2008;

IT IS HEREBY ORDERED that the Defendants' Motion for Partial Summary Judgment (doc. no. 16) is **DENIED**.

IT IS FURTHER ORDERED that the portion of the Report and Recommendation (doc. no. 53) of Magistrate Judge Lenihan, dated February 21, 2008, recommending denial of Defendants' Motion for Partial Summary Judgment is adopted as the Opinion of the court.

IT IS FURTHER ORDERED that this matter is remanded back to Magistrate Judge Lisa Pupo Lenihan for all further pretrial proceedings.


Gary L. Lancaster
United States District Judge

cc: Lisa Pupo Lenihan
United States Magistrate Judge

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